
By: **Chairman, Finance Committee (By Request - Departmental - Public Service Commission)**

Introduced and read first time: January 23, 2004

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Public Service Commission - Declaratory Judgments**

3 FOR the purpose of providing that certain petitions to challenge the validity or
4 application of a regulation of the Public Service Commission must be filed
5 within certain periods; providing for the determination of the application of
6 certain regulations under certain circumstances; repealing a provision that
7 allowed a court to determine the validity of a regulation regardless of whether
8 the petitioner had asked the Commission to do so; providing that a party must
9 raise an objection to the Commission's decision to act by order rather than by
10 regulation in a court proceeding within a certain time period; prohibiting a party
11 from appealing the Commission's decision to act by order under certain
12 circumstances; providing for the application of this Act; and generally relating to
13 the authority of the Public Service Commission.

14 BY repealing and reenacting, with amendments,
15 Article - Public Utility Companies
16 Section 3-201
17 Annotated Code of Maryland
18 (1998 Volume and 2003 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Public Utility Companies**

22 3-201.

23 (a) (1) A PETITION FOR DECLARATORY JUDGMENT CHALLENGING THE
24 VALIDITY OF A REGULATION OF THE COMMISSION MUST BE FILED WITHIN 30 DAYS
25 AFTER THE FINAL REGULATION IS PUBLISHED IN THE MARYLAND REGISTER.

26 (2) (I) The [validity] APPLICATION of a regulation of the Commission
27 may be determined on a petition for declaratory judgment whenever it appears that

1 [the regulation, or] its application[,] actually or potentially interferes with or
2 impairs the legal rights or privileges of the petitioner.

3 (II) A PETITION CHALLENGING THE APPLICATION OF A
4 REGULATION MUST BE FILED WITHIN 30 DAYS AFTER THE COMMISSION ISSUES THE
5 DECISION THAT DETERMINED THE CHALLENGED APPLICATION.

6 [(2) A court may render a declaratory judgment in accordance with
7 paragraph (1) of this subsection whether or not the petitioner has first asked the
8 Commission to determine the validity of the regulation in question.]

9 (B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION:

10 (1) A PARTY TO A COMMISSION PROCEEDING MUST SEEK JUDICIAL
11 REVIEW OF THE COMMISSION'S DECISION TO ACT BY ORDER RATHER THAN
12 REGULATION WITHIN 30 DAYS AFTER THE COMMISSION ISSUES A FINAL ORDER IN
13 THAT PROCEEDING; AND

14 (2) A PARTY WHO REQUESTS THAT THE COMMISSION ACT BY ORDER OR
15 WHO FAILS TO OBJECT TO THE ACTION OF THE COMMISSION BY ORDER RATHER
16 THAN BY REGULATION MAY NOT APPEAL THE COMMISSION'S DECISION TO ACT BY
17 ORDER.

18 [(b)] (C) The Commission shall be made a party to a proceeding under this
19 section.

20 [(c)] (D) A petition under this section shall be filed in the Circuit Court for
21 Baltimore City or the circuit court for the county where the petitioner has its
22 principal office in the State.

23 SECTION 2. AND BE IT FURTHER ENACTED, That notwithstanding any
24 provision of the Administrative Procedure Act, an order of the Public Service
25 Commission issued in a generic or quasi-legislative proceeding after January 1, 1988,
26 and prior to June 1, 2002, is valid and enforceable regardless of whether the order
27 meets the definition of a regulation under § 10-101 of the State Government Article.
28 This section may not be applied or interpreted to affect any court case that is filed or
29 has become final on or before June 1, 2004.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 June 1, 2004.